

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VONDA L. ANDREWS,

Plaintiff,

Case No. 12-13111

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 34)
AND
GRANTING PLAINTIFF'S PETITION FOR ATTORNEY FEES (Doc. 28)

I.

This is a social security case. Plaintiff Vonda L. Andrews appealed from the final determination of the Commissioner of Social Security (Commissioner) that she is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. Plaintiff requested that the Commissioner's decision be reversed and benefits awarded, or that the matter be remanded for further proceedings. The magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's motion be granted as to a remand and the Commissioner's motion be denied. (Doc. 16). Neither party objected. The Court adopted the MJRR and remanded the matter to the Administrative Law Judge. (Doc. 17).

Thereafter, plaintiff's counsel filed a petition for attorney fees under the Equal

Access to Justice Act (EAJA). (Doc. 19). The magistrate judge granted in part and denied in part the motion, and awarded plaintiff's counsel \$4,312.30. (Doc. 24).

Plaintiff prevailed on remand and was awarded \$51,951.00 in past-due benefits. Plaintiff's counsel then filed a second petition for attorney fees, seeking \$12,987.75 which is 25% of plaintiff's past-due benefit award. (Doc. 28). Plaintiff's counsel also indicated he would return to plaintiff the EAJA fee previously awarded. The magistrate judge recommends that the petition be granted. (Doc. 34).

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

The Court agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's counsel's petition for attorney fees under 42 U.S.C. § 406(b)(1) is GRANTED. Plaintiff's counsel is awarded \$12,987.75, provided plaintiff's counsel refund to plaintiff the amount previously awarded under the EAJA (\$4,312.50).

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: July 31, 2014
Detroit, MI

12-13111 Andrews v. Commissioner of Social Security

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, July 31, 2014, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160